

AMENDED IN ASSEMBLY MAY 3, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1366

Introduced by Assembly Member Portantino

February 23, 2007

An act to amend Sections 65400 and 65581 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1366, as amended, Portantino. General plan: ~~housing element annual report.~~

~~(1) Existing law~~

The Planning and Zoning Law requires ~~local governments~~ a city, county, or city and county to adopt a comprehensive general plan that addresses a number of elements, including the housing element, and *requires the planning agency* to make an annual report each year by April 1 to the legislative body of the local government and specified state agencies. ~~The~~ That law requires the housing element portion of the annual report ~~must to~~ address, among other things, the progress each local government is making toward fulfilling regional housing needs.

This bill would ~~require~~ provide that the housing element portion of the annual report filed by ~~each city, county, or city and county to the planning agency~~ may include a specific description of the status of the local government's efforts to meet its share of *that agency's* regional housing needs *assessment*, and when those needs are not met, ~~to require~~ the annual report ~~to include~~ ~~(1)~~ may set forth an estimate of the time needed to complete a review of, and implement, the actions that will

achieve and contribute to ~~meeting~~ *achieving* its share of regional housing needs; and (2) an explanation of the basis for the estimate.

By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(2) ~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ *no*. State-mandated local program: ~~yes~~ *no*.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65400 of the Government Code is
2 amended to read:

3 65400. (a) After the legislative body has adopted all or part
4 of a general plan, the planning agency shall do both of the
5 following:

6 (1) Investigate and make recommendations to the legislative
7 body regarding reasonable and practical means for implementing
8 the general plan or element of the general plan, so that it will serve
9 as an effective guide for orderly growth and development,
10 preservation and conservation of open-space land and natural
11 resources, and the efficient expenditure of public funds relating to
12 the subjects addressed in the general plan.

13 (2) Provide by April 1 of each year an annual report to the
14 legislative body, the Office of Planning and Research, and the
15 Department of Housing and Community Development that includes
16 all of the following:

17 (A) The status of the plan and progress in its implementation.

18 (B) The progress in meeting its share of regional housing needs
19 determined pursuant to Section 65584 and local efforts to remove
20 governmental constraints to the maintenance, improvement, and
21 development of housing pursuant to paragraph (3) of subdivision
22 (c) of Section 65583.

23 (i) The housing element portion of the annual report, as required
24 by this paragraph, shall be prepared through the use of forms and

1 definitions adopted by the Department of Housing and Community
2 Development pursuant to the rulemaking provisions of the
3 Administrative Procedure Act (Chapter 3.5 (commencing with
4 Section 11340) of Part 1 of Division 3 of Title 2).

5 (ii) The planning agency ~~shall~~ *may* include in the housing
6 element portion of the annual report a specific description of the
7 status of the legislative body's efforts to ~~meet, or contribute to the~~
8 ~~meeting plan, or contribute to the planning of, that agency's~~
9 regional housing needs *assessment*, as determined pursuant to
10 Section 65584. If the regional housing needs are not met, the
11 planning agency ~~shall set forth (I) may set forth~~ the period of time
12 it estimates will be needed to complete a review of, and implement,
13 the actions that ~~will achieve and contribute to meeting its share of~~
14 ~~regional housing needs, and (II) an explanation of the basis for~~
15 ~~this estimate.~~ *will contribute to achieving its share of regional*
16 *housing needs.*

17 (C) The degree to which its approved general plan complies
18 with the guidelines developed and adopted pursuant to Section
19 65040.2 and the date of the last revision to the general plan.

20 (b) If a court finds, upon a motion to that effect, that a city,
21 county, or city and county failed to submit, within 60 days of the
22 deadline established in this section, the housing element portion
23 of the report required pursuant to subparagraph (B) of paragraph
24 (2) of subdivision (a) that substantially complies with the
25 requirements of this section, the court shall issue an order or
26 judgment compelling compliance with this section within 60 days.
27 If the city, county, or city and county fails to comply with the
28 court's order within 60 days, the plaintiff or petitioner may move
29 for sanctions, and the court may, upon that motion, grant
30 appropriate sanctions. The court shall retain jurisdiction to ensure
31 that its order or judgment is carried out. If the court determines
32 that its order or judgment is not carried out within 60 days, the
33 court may issue further orders as provided by law to ensure that
34 the purposes and policies of this section are fulfilled. This
35 subdivision applies to proceedings initiated on or after the first
36 day of October following the adoption of forms and definitions by
37 the Department of Housing and Community Development pursuant
38 to paragraph (2) of subdivision (a), but no sooner than six months
39 following that adoption.

SEC. 2. Section 65581 of the Government Code is amended to read:

65581. It is the intent of the Legislature in enacting this article:
(a) To assure that counties and cities recognize their responsibilities in contributing to the attainment of the state housing goal.

(b) To assure that counties and cities will prepare and implement housing elements which, along with federal and state programs, will move toward attainment of the state housing goal.

(c) To recognize that each locality is best capable of determining what efforts are required by it to contribute to the attainment of the state housing goal, provided such a determination is compatible with the state housing goal and regional housing needs.

(d) To ensure that each local government cooperates with other local governments in order to address regional housing needs.

(e) To ensure that the housing element portion of the annual report filed by each city, county, or city and county, as required by Section 65400, includes a specific description of the status of the local government's efforts to ~~meet~~ *plan for* its share of the regional housing needs, ~~and when those needs are not met, to require the report to needs assessment, and when that need is not met, the report may include~~ (1) an estimate of the time needed to complete a review of, and ~~implement~~ *plan for*, the actions that will achieve and contribute to ~~meeting its share of regional housing needs, and~~ (2) an explanation of the basis for this estimate. *meeting its share of the regional housing needs assessment.*

~~SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.~~